

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – STATE OF NEW YORK, TDX  
CONSTRUCTION CORP., and KOHN PEDERSEN FOX  
ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK  
and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

- against –

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

- against –

CAROLINA CASUALTY INSURANCE COMPANY, BARTEC  
INDUSTRIES, INC., DAYTON SUPERIOR SPECIALTY  
CHEMICAL CORP. a/k/a DAYTON SUPERIOR  
CORPORATION, SPECIALTY CONSTRUCTION BRANDS,  
INC. t/a TEC, KEMPER CASUALTY INSURANCE  
COMPANY d/b/a KEMPER INSURANCE COMPANY,  
GREAT AMERICAN INSURANCE COMPANY, NATIONAL  
UNION FIRE INSURANCE COMPANY OF PITTSBURGH,  
PA., UNITED STATES FIRE INSURANCE COMPANY,  
ALLIED WORLD ASSURANCE COMPANY (U.S.) INC. f/k/a  
COMMERCIAL UNDERWRITERS INSURANCE COMPANY,  
ZURICH AMERICAN INSURANCE COMPANY d/b/a  
ZURICH INSURANCE COMPANY, OHIO CASUALTY  
INSURANCE COMPANY d/b/a OHIO CASUALTY GROUP,  
HARLEYSVILLE MUTUAL INSURANCE COMPANY (a/k/a  
HARLEYSVILLE INSURANCE COMPANY), JOHN DOES 1-  
20 AND XYZ CORPS. 1-20,

Fourth-Party Defendants.

Case No.  
07 Civ. 6915 (DLC)

**ANSWER OF DASNY  
AND TDX TO  
COUNTERCLAIM OF  
FOURTH-PARTY  
DEFENDANT  
OHIO CASUALTY**

Defendants/Third-Party Plaintiffs Dormitory Authority of the State of New York ("DASNY") and TDX Construction Corp. ("TDX"), by their attorneys, Holland & Knight LLP, answer the "counterclaims" of Fourth-Party Defendant Ohio Casualty Insurance Company ("OCIC"), dated December 7, 2007 ("OCIC's Counterclaims"), as follows:

ANSWERING THE "FIRST COUNT"

1. Paragraph 1 of the First Count of OCIC's Counterclaims merely repeats and realleges its answers to the Fourth-Party Complaint, and DASNY and TDX are not required to respond thereto. To the extent that DASNY and TDX are required to respond, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the First Count.

2. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the First Count of OCIC's Counterclaims.

3. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the First Count of OCIC's Counterclaims.

4. The allegations contained in paragraph 4 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the First Count.

5. The allegations contained in paragraph 5 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the First Count.

6. The allegations contained in paragraph 6 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the First Count.

7. The allegations contained in paragraph 7 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the First Count.

8. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the First Count of OCIC's Counterclaims.

9. The allegations contained in paragraph 9 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the First Count.

10. The allegations contained in paragraph 10 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the First Count.

11. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the First Count of OCIC's Counterclaims.

12. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the First Count of OCIC's Counterclaims.

13. The allegations contained in paragraph 13 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the First Count.

14. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the First Count of OCIC's Counterclaims.

15. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the First Count of OCIC's Counterclaims.

16. The allegations contained in paragraph 16 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the First Count.

17. The allegations contained in paragraph 17 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the First Count.

18. The allegations contained in paragraph 18 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the First Count.

19. The allegations contained in paragraph 19 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the First Count.

20. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the First Count of OCIC's Counterclaims.

21. The allegations contained in paragraph 21 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the First Count.

22. The allegations contained in paragraph 22 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the First Count.

23. The allegations contained in paragraph 23 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the First Count.

24. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the First Count of OCIC's Counterclaims.

25. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the First Count of OCIC's Counterclaims.

26. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the First Count of OCIC's Counterclaims.

27. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the First Count of OCIC's Counterclaims.

28. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the First Count of OCIC's Counterclaims.

29. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the First Count of OCIC's Counterclaims.

30. The allegations contained in paragraph 30 of the First Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the First Count.

ANSWERING THE "SECOND COUNT"

31. Paragraph 1 of the Second Count of OCIC's Counterclaims merely repeats and realleges its answers to the Fourth-Party Complaint, and DASNY and TDX are not required to respond thereto. To the extent that DASNY and TDX are required to respond, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Second Count.

32. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Second Count of OCIC's Counterclaims.

33. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Second Count of OCIC's Counterclaims.

34. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Second Count of OCIC's Counterclaims.

35. The allegations contained in paragraph 5 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Second Count.

36. The allegations contained in paragraph 6 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Second Count.

37. The allegations contained in paragraph 7 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Second Count.

38. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Second Count of OCIC's Counterclaims.

39. The allegations contained in paragraph 9 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Second Count.

40. DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Second Count of OCIC's Counterclaims.

41. The allegations contained in paragraph 11 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Second Count.

42. The allegations contained in paragraph 12 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a

response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Second Count.

43. The allegations contained in paragraph 13 of the Second Count of OCIC's Counterclaims state a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Second Count.

**FIRST AFFIRMATIVE DEFENSE**

44. OCIC's Counterclaims fail to state a cause of action against DASNY upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

45. OCIC's Counterclaims fail to state a cause of action against TDX upon which relief may be granted.

**WHEREFORE**, DASNY and TDX demand judgment dismissing OCIC's Counterclaims in their entirety as against them, together with the costs and disbursements of this action, attorneys' fees, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
January 7, 2008

HOLLAND & KNIGHT LLP  
*Attorneys for Defendants Dormitory  
Authority of the State of New York and  
TDX Construction Corp.*

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY  
COMPANY as Administrator for RELIANCE  
INSURANCE COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – THE STATE OF NEW  
YORK, TDX CONSTRUCTION CORP., and KOHN  
PEDERSEN FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF  
NEW YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

- against -

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

Case No. 07 Civ. 6915 (DLC)  
ECF CASE

**AFFIDAVIT OF SERVICE**

KAREN L. HIPPNER hereby declares the following to be true under penalty of perjury:

On January 7, 2008, I caused the foregoing Answer of DASNY and TDX Construction Corp. to Counterclaim of Fourth Defendant Ohio Casualty to be served upon all parties listed in the attached service list, at the addresses designated for service by depositing same, enclosed in a properly addressed wrapper, first-class postage, in an official depository under the exclusive care of the United States Postal Service within the State of New York.

On January 7, 2008, I caused the foregoing Answer of DASNY and TDX Construction Corp. to Counterclaim of Fourth Defendant Ohio Casualty to be served via electronic filing upon all parties currently appearing in this litigation.

Dated: New York, New York  
January 7, 2008

  
Karen L. Hippner

Sworn to before me this date  
January 7, 2008

  
**BRIAN J. O'FEELY**  
Notary Public, State of New York  
Notary #**ND01RE6161594**  
Qualified in New York County  
Commission Expires February 26, 2011

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